

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

Caron Nazario)
v. Plaintiff,)
)
)
)
Joe Gutierrez, et. al.)
Defendants.)
)

PLAINTIFF CARON NAZARIO
MEMORANDUM IN SUPPORT OF HIS MOTION FOR PROTECTIVE ORDER

COMES NOW the Plaintiff, Caron Nazario, by counsel, and files this brief in support of the Plaintiff's 26(c) motion for a protective order and in support thereof states as follows:

I. Posture of the Case

In this matter, the plaintiff Caron Nazario, a lieutenant in the US Army National Guard has alleged, pursuant to 42 USC § 1983, that the Defendants, acting under color or law, violated his clearly established rights under Amendments I and IV of to the Constitution of the United States of America. **Doc Nos. 1 and 1.2 - 1.11.** The Plaintiff alleges that the Defendants detained him for allegedly not having a license plate. He alleges despite the defendants' own admissions that Nazario's behavior was "reasonable" and that it "happen[ed] to them all the time" they threatened to murder the Plaintiff, OC sprayed him, beat him, and illegally searched his vehicle for a firearm. The plaintiff alleges that to cover their illegal actions and to extort his silence, the defendants, without probable cause, threatened to charge him with assault on a law enforcement officer, eluding police, and obstruction of justice. The Plaintiff further alleges that upon returning to the Windsor Police Department, the defendants conspired to falsify various official reports to create a narrative that would have supported the charges had Caron Nazario decided to speak out.

II. Nature of the Discovery Dispute.

The Defendants, via interrogatories and requests for production of documents have requested highly sensitive information from Plaintiff Caron Nazario to include (a) his military service record, (b) medical records, (c) home address, (d) cohabitants and names, (e) vehicle identification, and (f) military deployment orders.

Given the media attention and high-profile nature of this case, the Plaintiff has considerable concern that if this information is leaked to outside sources, or retained by the Defendants, it can be used by nefarious parties to locate and harm the Plaintiff or his family members as indeed the Plaintiff believes that he has already suffered retaliation in the form of vandalism of his vehicle. Plaintiff is also concerned that such information as contained in his military records and deployment orders implicate national security concerns to the extent that they reveal what army units are deploying where and when.

Fed. R. Civ. P. 26(c) permits this Court to enter an order specifying the terms, including time and place for disclosure of discovery, **Fed. R. Civ. P. 26(c)(1)(B)**, and designating persons who may be present while discovery is conducted, **Fed. R. Civ. P. 26(c)(1)(C)**. The protective order attached hereto as **Exhibit A**, is a well-tailored order which protects the security interests of the Army and the privacy and security concerns of the Plaintiff while at the same time permitting disclosure to the defendants of the documents and information that they have requested in discovery.

III. Efforts Made by Parties to Resolve the Dispute.

Beginning on or around September 21, 2021, Counsel for the Plaintiff and for the Defendants have discussed the order, and its contours, via e-mail and telephonic communications. The Defendants have intimated that they wanted certain changes. On October

7, 2021 the Plaintiff's counsel turned the protective order over to counsel for the Defendants in word form for their revisions on October 7, 2021, for review and changes. The Plaintiff has received no revised order in reply.

IV. Hearing.

Plaintiff Caron Nazario requests a hearing on the matter, in person or telephonic, to the extent that the Court has any questions or concerns related to the proposed protective order.

V. Certification.

Counsel for Caron Nazario hereby certifies that he has conferred with Counsel for Crocker in a good faith attempt to resolve these issues without court involvement.

WHEREFORE, plaintiff, by counsel respectfully requests that this honorable court enter the protective order and any further relief as this court deems warranted.

October 27, 2021

Respectfully submitted,

By: /s/ Jonathan M. Arthur, Esq.
Counsel

Jonathan M. Arthur, Esq. VSB # 86323
j.arthur@robertslaw.org
Thomas H. Roberts, Esq. VSB # 26014
tom.roberts@robertslaw.org
Andrew T. Bodoh, Esq. VSB # 80143
andrew.bodoh@robertslaw.org
Thomas H. Roberts & Associates, P.C.
105 South 1st Street
Richmond, VA 23219
(804) 991-2002 (Direct)
(804) 783-2000 (Firm)
(804) 783-2105 (Fax)
Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed with the Court's CM/ECF system, which caused a Notice of Electronic Filing to be emailed to the following:

John B. Mumford, Jr. (VSB No. 38764)
Coreen A. Silverman (VSB No. 43873)
HANCOCK DANIEL & JOHNSON, P.C.
4701 Cox Road, Suite 400
Glen Allen, Virginia 23060
Tel: (804) 967-9604
Fax: (804) 967-9888
jmumford@hancockdaniel.com
csilverman@hancockdaniel.com
Counsel for Defendant Joe Gutierrez

Robert L. Samuel, Jr. (VSB No. 18605)
Richard H. Matthews (VSB No. 16318)
Anne C. Lahren (VSB No. 73125)
Bryan S. Peebles (VSB No. 93709)
PENDER & COWARD
222 Central Park Avenue, Suite 400
Virginia Beach, Virginia 23462
Tel: (757) 490-6293
Fax: (757) 502-7370
rsmuel@pendercoward.com
rmatthew@pendercoward.com
alahren@pendercoward.com
bpeebles@pendercoward.com
Counsel for Defendant Daniel Crocker

This the 27th day of October, 2021

By: /s/ Jonathan M. Arthur, Esq.
Counsel

Jonathan M. Arthur, Esq. VSB # 86323
j.arthur@robertslaw.org
Thomas H. Roberts, Esq. VSB # 26014
tom.roberts@robertslaw.org
Andrew T. Bodoh, Esq. VSB # 80143
andrew.bodoh@robertslaw.org
Thomas H. Roberts & Associates, P.C.
105 South 1st Street
Richmond, VA 23219
(804) 991-2002 (Direct)
(804) 783-2000 (Firm)
(804) 783-2105 (Fax)
Counsel for Plaintiff